

ELECTION REQUIREMENTS FOR COUNTY

CANDIDATES

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Ross I. Romero

LONG TITLE

General Description:

This bill modifies the election code to require that persons seeking to be elected as a county auditor in counties of the first class be licensed as a certified public accountant.

Highlighted Provisions:

This bill:

- modifies the election code to require that persons filing a declaration of candidacy for the office of county auditor in a county of the first class be licensed as a certified public accountant;

- removes sections containing duplicate language and replaces the duplicate language with cross-references; and

- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-16-1, as last amended by Chapter 206, Laws of Utah 1999

17-18-5, as last amended by Chapter 139, Laws of Utah 1997

17-22-1.5, as last amended by Chapter 140, Laws of Utah 2003



28 **20A-9-201**, as last amended by Chapter 140, Laws of Utah 2003
29 ENACTS:

30 **17-19-30**, Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **17-16-1** is amended to read:

34 **17-16-1. Eligibility and residency requirements for county, district, precinct, or**
35 **prosecution district office.**

36 (1) [A] Each person filing a declaration of candidacy for a county, district, precinct, or
37 prosecution district office shall:

38 (a) be a United States citizen;

39 (b) (i) except as provided in Subsection [17-18-5(1)(d)(ii)] (1)(b)(ii), with respect to
40 the office of county attorney or district attorney, [as of the date of the election] have been a
41 resident of the county, district, precinct, or prosecution district in which the person seeks office
42 for at least one year[; and] as of the date of the election; or

43 (ii) have been appointed as county attorney or district attorney and, at the time of filing,
44 be serving as a county or district attorney and have become a resident of the county or
45 prosecution district within 30 days after appointment to the office;

46 (c) be a registered voter in the county, district, precinct, or prosecution district in which
47 the person seeks office[; and]

48 (d) (i) for the office of county assessor, also meet the requirements of Section 17-17-2;

49 (ii) for the office of county attorney or district attorney, also meet the requirements of
50 Section 17-18-5;

51 (iii) for the office of county auditor, also meet the requirements of Section 17-19-30; or

52 (iv) for the office of county sheriff, also meet the requirements of Subsection
53 17-22-1.5(1).

54 (2) (a) A county, district, precinct, or prosecution district officer shall maintain
55 residency within the county, district, precinct, or prosecution district in which he was elected
56 during his term of office.

57 (b) If a county, district, precinct, or prosecution district officer establishes his principal
58 place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or

prosecution district in which he was elected, the office is automatically vacant.

Section 2. Section **17-18-5** is amended to read:

17-18-5. Requirements of office.

(1) ~~[A]~~ Each person filing a declaration of candidacy for the office of county attorney or district attorney shall ~~[(a) be a United States citizen; (b)]~~ meet the requirements of Section 17-16-1 and shall be an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar~~;~~.

~~[(c) be a registered voter in the county or prosecution district in which he is elected to the office; and]~~

~~[(d) (i) have been, as of the date of the election, a resident of the county or prosecution district in which he seeks office for at least one year; or]~~

~~[(ii) have been appointed and, at the time of filing, be serving as county or district attorney and have become a resident of the county or prosecution district within 30 days after appointment to the office].~~

(2) Each person appointed to the office of county attorney or district attorney shall be:

(a) a United States citizen; and

(b) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar.

Section 3. Section **17-19-30** is enacted to read:

17-19-30. Requirements of office.

Each person filing a declaration of candidacy for the office of county auditor shall:

(1) meet the requirements of Section 17-16-1; and

(2) if filing for candidacy in a first class county after January 1, ~~H→ [2006] 2010 ←H~~, be a

licensed

certified public accountant as of the date of filing.

Section 4. Section **17-22-1.5** is amended to read:

17-22-1.5. County sheriff qualifications.

(1) Each person filing a declaration of candidacy for the office of county sheriff shall, in addition to meeting the requirements of Section 17-16-1:

(a) (i) have successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(ii) have passed a certification examination as provided in Section 53-6-206; and
(b) be qualified to be certified as a law enforcement officer, as defined in Section 53-13-103.

(2) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff shall:

(a) at the time of taking office:

(i) (A) have successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) have passed a certification examination as provided in Section 53-6-206; and

(ii) be qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; ~~and~~

(b) satisfactorily complete annual certified training as required in Section 53-13-103; and

(c) after certification as provided in Subsection (2)(a), remain certified as a law enforcement officer during the sheriff's term of office.

(3) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection (2).

Section 5. Section **20A-9-201** is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen; and

(b) meet the legal requirements of that office.

(2) (a) Except as provided in Subsection (2)(b), a person may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; or

(ii) appear on the ballot as the candidate of more than one political party.

(b) A person may file a declaration of candidacy for, or be a candidate for, President or Vice President of the United States and another office, if the person resigns the person's

121 candidacy for the other office after the person is officially nominated for President or Vice
122 President of the United States.

123 (3) If the final date established for filing a declaration of candidacy is a Saturday or
124 Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

125 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any
126 declaration of candidacy, the filing officer shall:

127 (A) read to the prospective candidate the constitutional and statutory qualification
128 requirements for the office that the candidate is seeking; and

129 (B) require the candidate to state whether or not the candidate meets those
130 requirements.

131 (ii) Before accepting a declaration of candidacy for ~~[the office of county attorney]~~ a
132 county office, the county clerk shall ensure that the person filing that declaration of candidacy
133 ~~[is:]~~ meets the requirements of Section 17-16-1.

134 ~~[(A) a United States citizen;]~~

135 ~~[(B) an attorney licensed to practice law in Utah who is an active member in good~~
136 ~~standing of the Utah State Bar;]~~

137 ~~[(C) a registered voter in the county in which he is seeking office; and]~~

138 ~~[(D) a current resident of the county in which he is seeking office and either has been a~~
139 ~~resident of that county for at least one year or was appointed and is currently serving as county~~
140 ~~attorney and became a resident of the county within 30 days after appointment to the office.]~~

141 (iii) Before accepting a declaration of candidacy for the office of district attorney, the
142 county clerk shall ensure that, as of the date of the election, the person filing that declaration of
143 candidacy is:

144 (A) a United States citizen;

145 (B) an attorney licensed to practice law in Utah who is an active member in good
146 standing of the Utah State Bar;

147 (C) a registered voter in the prosecution district in which he is seeking office; and

148 (D) a current resident of the prosecution district in which he is seeking office and either
149 will have been a resident of that prosecution district for at least one year as of the date of the
150 election or was appointed and is currently serving as district attorney and became a resident of
151 the prosecution district within 30 days after receiving appointment to the office.

~~[(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the person filing the declaration of candidacy:]~~

~~[(A) as of the date of filing:]~~

~~[(I) is a United States citizen;]~~

~~[(H) is a registered voter in the county in which the person seeks office;]~~

~~[(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or]~~

~~[(Bb) has passed a certification examination as provided in Section 53-6-206; and]~~

~~[(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and]~~

~~[(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.]~~

(b) If the prospective candidate states that he does not meet the qualification requirements for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate states that he meets the requirements of candidacy, the filing officer shall:

(i) accept the candidate's declaration of candidacy; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(5) Except for presidential candidates, the form of the declaration of candidacy shall be substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I can qualify to hold that office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; and I will qualify for the office if elected to it. The mailing address that I designate for receiving official election notices is

183 _____.

184 _____

185 Subscribed and sworn before me this _____(month\day\year).

186 _____
187 Notary Public (or other officer qualified to administer oath.)"

188 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy
189 is:

190 (i) \$25 for candidates for the local school district board; and

191 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person
192 holding the office, but not less than \$5, for all other federal, state, and county offices.

193 (b) Except for presidential candidates, the filing officer shall refund the filing fee to
194 any candidate:

195 (i) who is disqualified; or

196 (ii) who the filing officer determines has filed improperly.

197 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received
198 from candidates.

199 (ii) The lieutenant governor shall:

200 (A) apportion to and pay to the county treasurers of the various counties all fees
201 received for filing of nomination certificates or acceptances; and

202 (B) ensure that each county receives that proportion of the total amount paid to the
203 lieutenant governor from the congressional district that the total vote of that county for all
204 candidates for representative in Congress bears to the total vote of all counties within the
205 congressional district for all candidates for representative in Congress.

206 (d) (i) Each person who is unable to pay the filing fee may file a declaration of
207 candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an
208 affidavit of impecuniosity filed with the filing officer.

209 (ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in
210 substantially the following form:

211 "Affidavit of Impecuniosity

212 Individual Name

213 _____Address_____

214 Phone Number _____

215 I, _____ (name), do solemnly [swear] [affirm] that, owing to my
216 poverty, I am unable to pay the filing fee required by law.

217 Date _____ Signature _____

218 Affiant

219 Subscribed and sworn to before me on _____ (month\day\year)

220 _____
221 (signature)

222 Name and Title of Officer Authorized to Administer Oath _____ "

223 (7) Any person who fails to file a declaration of candidacy or certificate of nomination
224 within the time provided in this chapter is ineligible for nomination to office.

Legislative Review Note

as of 1-6-05 4:55 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0158

Election Requirements for County Candidates

25-Jan-05
7:47 AM

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.

Office of the Legislative Fiscal Analyst